



U.S. Department
of Transportation
**Federal Highway
Administration**

Memorandum

Subject	Categorical Exclusion (CE) Documentation and Approval	Date	MAR 30 1989
From	Director, Office of Environmental Policy Washington, D.C. 20590	Reply to Attn of:	HEV-1
To	Regional Federal Highway Administrators Direct Federal Program Administrator		

The attached programmatic model provides what we believe is a workable framework which any Division Office could employ or modify for its own purposes to more expeditiously and efficiently document and approve CEs which qualify for a CE determination under 23 CFR Part 771.117(d). For the projects which meet the conditions stipulated, individual project-by-project review, documentation, and approval are not required by the Division Office, since the programmatic would constitute a one-time advance documentation and approval.

Consistent with the Federal Highway Administration's (FHWA's) program management policy, the Division Offices would need to make periodic reviews of the States' procedures and documentation to ensure that all potential environmental impacts are being considered and compliance with all applicable laws, regulations, executive orders, etc., is being properly documented. This should reduce paperwork and effort yet maintain acceptable control over the projects.

This programmatic model was developed from the several worthwhile approaches we noted in analyzing information the field provided us on the processing of CEs under the revised 23 CFR 771. We estimate that the use of the preapproval inherent in 23 CFR 771.117(c) and this programmatic model for many of the projects which qualify as CEs under 23 CFR 771.117(d) would obviate the need for project specific review for 85 percent or more of CEs. As such, this approach is consistent with the recently distributed Program Delivery Report.

To obtain FHWA approval for those projects that do not satisfy the stipulated conditions 3-6 in the programmatic, e.g., projects which use wetlands, Section 4(f) properties or more than minor amounts of right-of-way, etc., the State would need to submit supporting information for each individual project which would clearly establish that there is little or no potential for significant impacts.

A number of approaches may be used by the Division Office and the State highway administration to document the CE classification. For example, the annual 105 program of projects or a periodic listing of projects which

identifies those projects which are preapproved and those which meet the terms of the programmatic could be submitted to the Division Office. Other CE classifications could be individually approved using a "batch" process, whereby a number of similar projects, e.g., bridge replacements, are reviewed, documented, and approved at one time.

We strongly encourage you to promote a more efficient CE approval process in those Division Offices where efficiency can be improved. The attached is a recommended approach which the Division Offices could explore with the States. It is not the only approach, and possibly would need to be modified to meet certain State or local conditions, but it does provide a good starting point.

A handwritten signature in black ink, appearing to read 'Ali F. Sevin', with a large, stylized initial 'A'.

Ali F. Sevin

Attachment

Programmatic Categorical Exclusion Approvals

The State highway administration (SHA) and the Federal Highway Administration (FHWA) concur in advance with the classification of those types of Categorical Exclusions (CEs), identified in 23 CFR Part 771.117(d) with no environmental impacts. The SHA certifies that all the conditions indicated in this blanket classification will be satisfied for all of the projects processed under this programmatic classification and approval process.

Additional actions which qualify as CEs under 23 CFR 771.117(d), that meet the criteria of 23 CFR 771.117(a) may be designated as CEs upon the submission of documentation which demonstrates that the specific conditions or criteria for those CEs are satisfied and that significant environmental impacts will not result.

The following conditions will apply to those actions which qualify under 23 CFR 771.117(d) that are processed by the SHA under this programmatic approach. If one or more of the following conditions are not satisfied, separate environmental documentation which demonstrates that the specific conditions or criteria for the CEs are satisfied and that significant environmental impacts will not result, will be submitted to the FHWA to support the classification.

1. The action does not have any significant environmental impacts as described in 23 CFR 771.117(a).
2. The action does not involve unusual circumstances as described in 23 CFR 771.117(b).
3. The action does not involve the following:
 - a. The acquisition of more than minor amounts of temporary or permanent strips of right-of-way* for construction of such items as clear vision corners and grading. Such acquisitions will not require any commercial or residential displacements.
 - b. The use of properties protected by Section 4(f) of the Department of Transportation Act (49 U.S.C. 303).
 - c. A determination of adverse effect by the State Historic Preservation Officer.
 - d. Any U.S. Coast Guard construction permits or any U.S. Army Corps of Engineers Section 404 permits.

***Note:** Although a precise definition is not required, one State has defined a minor amount of right-of-way as not more than 10 percent of a parcel for parcels under 10 acres in size, 1 acre for parcels 10 to 100 acres in size and 1 percent of the parcel for parcels greater than 100 acres in size.

- e. Any work in wetlands.
 - f. Any work encroaching on a regulatory floodway or any work affecting the base floodplain (100-year flood) elevations of a water course or lake.
 - g. Construction in, across or adjacent to a river designated as a component or proposed for inclusion in the National System of Wild and Scenic Rivers published by the U.S. Department of the Interior/U.S. Department of Agriculture.
 - h. Any changes in access control.
 - i. The use of a temporary road, detour or ramp closure unless the use of such facilities satisfy the following conditions:
 - (1) Provisions are made for access by local traffic and so posted.
 - (2) Through-traffic dependent business will not be adversely affected.
 - (3) The detour or ramp closure, to the extent possible, will not interfere with any local special event or festival.
 - (4) The temporary road, detour or ramp closure does not substantially change the environmental consequences of the action.
 - (5) There is no substantial controversy associated with the temporary road, detour, or ramp closure.
 - j. Any known hazardous materials sites or previous land uses with potential for hazardous materials remains within the right-of-way.
- 4. The action conforms to the Air Quality Implementation Plan which is approved or promulgated by the Environmental Protection Agency in air quality nonattainment areas.
 - 5. The action is consistent with the State's Coastal Zone Management Plan as determined by the appropriate State agency.
 - 6. The action occurs in an area where there are no federally listed endangered or threatened species or critical habitat.

All determinations made by the SHA under this blanket classification will be documented. The documentation will be available for FHWA review upon request.

A list of the individual projects classified under this blanket classification will be furnished to the FHWA Division Office prior to final design activities, property acquisition (with the exception of hardship and protective buying), or project construction.